

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SHARON BOBBITT, Individually and On)	No. 04-12263-PBS
Behalf of All Others Similarly Situated,)	
)	
Plaintiff,)	
)	
vs.)	
)	
ANDREW J. FILIPOWSKI, et al.,)	
)	
Defendants.)	
)	
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JAMES F. HOWARD, Individually and On)	No. 06-11072-PBS
Behalf of All Others Similarly Situated,)	
)	
Plaintiff,)	
)	
vs.)	
)	
ANDREW J. FILIPOWSKI, et al.,)	
)	
Defendants.)	
)	
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ASSENTED-TO MOTION TO RE-OPEN CASE, APPROVE [PROPOSED] AMENDED
ORDER PRELIMINARILY APPROVING SETTLEMENT AND PROVIDING FOR NOTICE,
AND SCHEDULE SETTLEMENT HEARING

Plaintiffs respectfully submit this assented-to motion to (i) re-open the above-captioned cases, which were administratively closed pursuant to this Court's minute order dated March 24, 2008, (ii) for entry of the attached proposed amended Order preliminarily approving the Class's settlement (the "Amended Preliminary Approval Order"), and (iii) in light of the settlement hearing recently set by the Bankruptcy Court for April 30, 2008, for the scheduling of a final settlement approval hearing for June 24, 2008 or any time thereafter that is convenient for the Court. In support of this motion, Plaintiffs state as follows:

1. Due to an unanticipated delay of the finalization of the Estate Representatives' settlement, the Plaintiffs moved the Court to continue the hearing to approve the Class's settlement, which was scheduled for March 25, 2008. On March 24, 2008, the Court, citing the ongoing proceedings in the Bankruptcy Court, closed this case administratively until the parties could demonstrate "why the case should be re-opened."

2. Within just a few hours of the Court's order of March 24, 2008, a significant development occurred: the Estate Representatives filed with the Bankruptcy Court the long-anticipated motion to approve the Estate Representatives' settlement (the "Bankruptcy Approval Motion"). A copy of the Bankruptcy Approval Motion is annexed hereto as Exhibit 1.¹ A hearing on the Bankruptcy Approval Motion is currently scheduled for *April 30, 2008*.

3. Finalization of the Estate Representatives' settlement was a substantial step in proceeding with the Class's settlement in this action. As the Court is aware, the Estate

¹ This motion in full is titled "Supplement to and Request for Hearing on the Motion of the Liquidating Trustee and the Liquidating Trust Representative for Authorization and Approval to Enter into Amended Settlement Agreements with Andrew J. Filipowski, Paul Humenasky, Michael P. Cullinane, Jude Sullivan, the Underwriters at Lloyd's, the Saint Paul Travelers Companies, Inc., Federal Insurance Company, and the Shareholder Plaintiffs."

Representatives appealed the Bankruptcy Court's order permitting the use of insurance proceeds to fund the Class's settlement. Under the terms of the Class's settlement, the Estate Representatives' appeals must be withdrawn before final approval of the Class's settlement. The recently-filed Bankruptcy Approval Motion expressly provides that the Estate Representatives, as a condition to settlement, will dismiss those appeals upon final approval² of the Estate Representatives' settlement. Moreover, the Class and the Estate Representatives have agreed to reduce the Class's recovery by \$200,000 in exchange for securing the dismissal of the appeals and permitting the parties to move forward with the Class's settlement.

4. As the parties advised the Court in previous filings, to reflect the aforementioned agreements with the Estate Representatives, Plaintiffs and Defendants have executed an Amended Stipulation of Settlement with exhibits, including a proposed Amended Order Preliminarily Approving Settlement and Providing for Notice, and those documents are being filed with the Court contemporaneously herewith. The Amended Stipulation of Settlement reflects the reduction in the settlement value of \$200,000 from the settlement embodied in the Stipulation, which had previously been preliminarily approved on August 25, 2006.

5. In light of these recent developments, including the pending settlement hearing set by the Bankruptcy Court for April 30, 2008, Plaintiffs believe that they can now proceed with the Class's settlement, and hereby propose the following schedule which, barring any unanticipated appeals or delays, allows sufficient time for final approval of the Estate Representatives' settlement prior to final approval of the Class's settlement:

² The Stipulation of Settlement in this action specifies that before the settlement can become "Effective," the March 16, 2007 Order of the Bankruptcy Court approving the use of proceeds must become "Final," meaning that any and all appeals have been resolved.

Entry of Amended Preliminary Approval Order:	Prior to April 30, 2008, at the Court's convenience and without a hearing
Settlement Hearing:	June 24, 2008, at the Court's convenience
Claim Deadline:	90 days from entry of the Amended Preliminary Approval Order
Request Exclusion from the Class:	June 2, 2008
Objection Deadline:	June 2, 2008
Mailing of Notice of Pendency:	21 days after entry of the Amended Preliminary Approval Order
Publication of Summary Notice:	7 calendar days after mailing of Notice of Pendency
Deadline for filing papers in support of the Settlement	May 23, 2008

WHEREFORE, for the reasons stated above, Plaintiffs, with Defendants' assent, hereby respectfully request that this Court (i) lift the administrative stay of March 24, 2008 and re-open this case, (ii) enter the Amended Preliminary Approval Order submitted herewith, (iii) approve the schedule proposed above, and (iv) set the Settlement Hearing for June 24, 2008 or any time thereafter that is convenient for the Court. Should this Court have any questions or need further clarification, the parties will be available to attend a conference before this Court as the Court directs.

DATED: April 8, 2008

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 8, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on April 8, 2008.

s/ Ellen Gusikoff Stewart

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